

SENATE BILL 530 (LRB -1731)

An Act to amend 346.65 (2) (b), 346.65 (2) (c), 346.65 (2j) (b), 346.65 (2j) (c), 346.65 (3m) and 973.09 (1) (d) 1.; and to create 346.65 (2) (bm), 346.65 (2) (cm), 346.65 (2j) (bm), 346.65 (2j) (cm) and 346.65 (3r) of the statutes; relating to: drunken driving and creating a penalty. (FE)

2006

02-28.	S.	Introduced by Senator Roessler ; cosponsored by Representatives Kaufert, Owens, Albers, Berceau, Gunderson, Jeskewitz, Kreibich and Ott.	
01-27.	S.	Read first time and referred to committee on Judiciary, Corrections and Privacy	562
02-01.	S.	Public hearing held.	
02-14.	S.	Executive action taken.	
02-15.	S.	Fiscal estimate received.	
02-21.	S.	Report introduction and adoption of Senate Amendment 1 recommended by committee on Judiciary, Corrections and Privacy, Ayes 5, Noes 0 (LRB a2324)	609
02-21.	S.	Report passage as amended recommended by committee on Judiciary, Corrections and Privacy, Ayes 5, Noes 0	609
02-21.	S.	Available for scheduling.	
02-28.	S.	Fiscal estimate received.	
03-03.	S.	Senate amendment 2 offered by Senator Roessler (LRB a2330)	681
03-06.	S.	Placed on calendar 3-7-2006 by committee on Senate Organization.	
03-07.	S.	Read a second time	699
03-07.	S.	Senate amendment 1 adopted	699
03-07.	S.	Senate amendment 2 adopted	699
03-07.	S.	Ordered to a third reading	699
03-07.	S.	Rules suspended	699
03-07.	S.	Read a third time and passed , Ayes 33, Noes 0	699
03-07.	S.	Ordered immediately messaged	700
03-21.	A.	Received from Senate	984
03-21.	A.	Read first time and referred to committee on Criminal Justice and Homeland Security	986
05-03.	A.	Public hearing held.	
05-04.	A.	Executive action taken.	
05-04.	A.	Assembly amendment 1 offered by committee on Criminal Justice and Homeland Security (LRB a3146).	
05-04.	A.	Report Assembly Amendment 1 adoption recommended by committee on Criminal Justice and Homeland Security, Ayes 10, Noes 0.	
05-04.	A.	Report concurrence as amended recommended by committee on Criminal Justice and Homeland Security, Ayes 10, Noes 0.	
05-04.	A.	Referred to committee on Rules.	
05-04.	A.	Rules suspended to withdraw from committee on Rules and take up.	
05-04.	A.	Assembly amendment 1 laid on table, Ayes 78, Noes 13.	
05-04.	A.	Ordered to a third reading.	
05-04.	A.	Rules suspended.	
05-04.	A.	Read a third time and passed .	
05-04.	A.	Ordered immediately messaged.	
05-05.	S.	Received from Assembly concurred in.	

2005 ENROLLED BILL

05en 5B-530

ADOPTED DOCUMENTS:

☒ Orig ☐ Engr SubAmdt

05 1731/5

Amendments to above (if none, write "NONE"): SA1 - a 2324/1
SA2 a 2330/3

Corrections - show date (if none, write "NONE"): None

Topic Rel

5-9-06

Date

[Signature]

Enrolling Drafter

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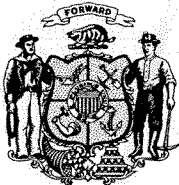
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State of Wisconsin
2005-2006 LEGISLATURE

File

CORRECTIONS IN:

2005 SENATE BILL 530

Prepared by the Legislative Reference Bureau
(May 9, 2006)

In enrolling, the following correction was made:

Item 1 of senate amendment 1 was not given effect because it was superseded by
item 1 of senate amendment 2.

(END)

2005 SENATE BILL 530

January 27, 2006 - Introduced by Senator ROESSLER, cosponsored by Representatives KAUFERT, OWENS, ALBERS, BERCEAU, GUNDERSON, JESKEWITZ, KREIBICH and OTT. Referred to Committee on Judiciary, Corrections and Privacy.

- 1 **AN ACT** *to amend* 346.65 (2) (b), 346.65 (2) (c), 346.65 (2j) (b), 346.65 (2j) (c),
2 346.65 (3m) and 973.09 (1) (d) 1.; and *to create* 346.65 (2) (bm), 346.65 (2) (cm),
3 346.65 (2j) (bm), 346.65 (2j) (cm) and 346.65 (3r) of the statutes; **relating to:**
4 drunken driving and creating a penalty.

Analysis by the Legislative Reference Bureau

This bill creates a pilot program for sentencing persons in Winnebago county who are convicted of certain second or third offenses involving operating a motor vehicle with a prohibited alcohol concentration, or under the influence of an intoxicant, a controlled substance or its analog, or any combination thereof (OWI).

Under the bill, the minimum period of imprisonment for an OWI offense in Winnebago county is reduced if the violator successfully completes a period of probation that includes alcohol and other drug treatment. A person may opt to complete a treatment program and receive a reduced period of imprisonment only once.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 346.65 (2) (b) of the statutes is amended to read:

2 346.65 (2) (b) Except as provided in ~~par.~~ pars. (bm) and (f), shall be fined not
3 less than \$350 nor more than \$1,100 and imprisoned for not less than 5 days nor more
4 than 6 months if the number of convictions under ss. 940.09 (1) and 940.25 in the
5 person's lifetime, plus the total number of suspensions, revocations, and other
6 convictions counted under s. 343.307 (1) within a 10-year period, equals 2, except
7 that suspensions, revocations, or convictions arising out of the same incident or
8 occurrence shall be counted as one.

9 **SECTION 2.** 346.65 (2) (bm) of the statutes is created to read:

10 346.65 (2) (bm) In Winnebago County, if the number of convictions under ss.
11 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions,
12 revocations, and other convictions counted under s. 343.307 (1) within a 10-year
13 period, equals 2, except that suspensions, revocations, or convictions arising out of
14 the same incident or occurrence shall be counted as one, the fine shall be the same
15 as under par. (b), but the period of imprisonment shall be not less than 5 days, except
16 that if the person successfully completes a period of probation that includes alcohol
17 and other drug treatment, the period of imprisonment shall be not less than 2 days.
18 A person may be sentenced under this paragraph or under par. (cm) or sub. (2j) (bm)
19 or (cm) or (3r) once in his or her lifetime.

20 **SECTION 3.** 346.65 (2) (c) of the statutes is amended to read:

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1 346.65 (2) (c) Except as provided in pars. (cm), (f), and (g), shall be fined not
2 less than \$600 nor more than \$2,000 and imprisoned for not less than 30 days nor
3 more than one year in the county jail if the number of convictions under ss. 940.09
4 (1) and 940.25 in the person's lifetime, plus the total number of suspensions,
5 revocations, and other convictions counted under s. 343.307 (1), equals 3, except that
6 suspensions, revocations, or convictions arising out of the same incident or
7 occurrence shall be counted as one.

8 **SECTION 4.** 346.65 (2) (cm) of the statutes is created to read:

9 346.65 (2) (cm) In Winnebago County, if the number of convictions under ss.
10 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions,
11 revocations, and other convictions counted under s. 343.307 (1) within a 10-year
12 period, equals 3, except that suspensions, revocations, or convictions arising out of
13 the same incident or occurrence shall be counted as one, the fine shall be the same
14 as under par. (c), but the period of imprisonment shall be not less than 30 days, except
15 that if the person successfully completes a period of probation that includes alcohol
16 and other drug treatment, the period of imprisonment shall be not less than 7 days.
17 A person may be sentenced under this paragraph or under par. (bm) or sub. (2j) (bm)
18 or (cm) or (3r) once in his or her lifetime.

19 **SECTION 5.** 346.65 (2j) (b) of the statutes is amended to read:

20 346.65 (2j) (b) Except as provided in ~~par.~~ pars. (bm) and (d), shall be fined not
21 less than \$300 nor more than \$1,000 and imprisoned for not less than 5 days nor more
22 than 6 months if the number of prior convictions under ss. 940.09 (1) and 940.25 in
23 the person's lifetime, plus the total number of other convictions, suspension, and
24 revocations counted under s. 343.307 (2) within a 10-year period, equals 2.

25 **SECTION 6.** 346.65 (2j) (bm) of the statutes is created to read:

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SECTION 6

1 346.65 (2j) (bm) In Winnebago County, if the number of convictions under ss.
2 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions,
3 revocations, and other convictions counted under s. 343.307 (1) within a 10-year
4 period, equals 2, except that suspensions, revocations, or convictions arising out of
5 the same incident or occurrence shall be counted as one, the fine shall be the same
6 as under par. (b), but the period of imprisonment shall be not less than 5 days, except
7 that if the person successfully completes a period of probation that includes alcohol
8 and other drug treatment, the period of imprisonment shall be not less than 2 days.
9 A person may be sentenced under this paragraph or under par. (cm) or sub. (2) (bm)
10 or (cm) or (3r) once in his or her lifetime.

11 **SECTION 7.** 346.65 (2j) (c) of the statutes is amended to read:

12 346.65 (2j) (c) Except as provided in ~~par.~~ pars. (cm) and (d), shall be fined not
13 less than \$600 nor more than \$2,000 and imprisoned for not less than 30 days nor
14 more than one year in the county jail if the number of convictions under ss. 940.09
15 (1) and 940.25 in the person's lifetime, plus the total number of other convictions,
16 suspensions, and revocations, counted under s. 343.307 (2), equals 3 or more.

17 **SECTION 8.** 346.65 (2j) (cm) of the statutes is created to read:

18 346.65 (2j) (cm) In Winnebago County, if the number of convictions under ss.
19 940.09 (1) and 940.25 in the person's lifetime, plus the total number of suspensions,
20 revocations, and other convictions counted under s. 343.307 (1) within a 10-year
21 period, equals 3 or more, except that suspensions, revocations, or convictions arising
22 out of the same incident or occurrence shall be counted as one, the fine shall be the
23 same as under par. (c), but the period of imprisonment shall be not less than 30 days,
24 except that if the person successfully completes a period of probation that includes
25 alcohol and other drug treatment, the period of imprisonment shall be not less than

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1 ~~30~~ days. A person may be sentenced under this paragraph or under par. (bm) or sub.
2 (2) (bm) or (cm) or (3r) once in his or her lifetime.

3 **SECTION 9.** 346.65 (3m) of the statutes is amended to read:

4 346.65 (3m) ~~Any~~ Except as provided in sub. (3r), any person violating s. 346.63
5 (2) or (6) shall be fined not less than \$300 nor more than \$2,000 and may be
6 imprisoned for not less than 30 days nor more than one year in the county jail. If
7 there was a minor passenger under 16 years of age in the motor vehicle at the time
8 of the violation that gave rise to the conviction under s. 346.63 (2) or (6), the offense
9 is a felony, the applicable minimum and maximum fines or periods of imprisonment
10 for the conviction are doubled and the place of imprisonment shall be determined
11 under s. 973.02.

12 **SECTION 10.** 346.65 (3r) of the statutes is created to read:

13 346.65 (3r) In Winnebago County, any person violating s. 346.63 (2) or (6) shall
14 be fined the same as under sub. (3m), but the period of imprisonment shall be not
15 less than ~~60~~ days, except that if the person successfully completes a period of
16 probation that includes alcohol and other drug treatment, the period of
17 imprisonment shall be not less than 15 days. If there was a minor passenger under
18 16 years of age in the motor vehicle at the time of the violation that gave rise to the
19 conviction under s. 346.63 (2) or (6), the offense is a felony, the applicable minimum
20 and maximum fines or periods of imprisonment for the conviction are doubled and
21 the place of imprisonment shall be determined under s. 973.02. A person may be
22 sentenced under this subsection or under sub. (2) (bm) or (cm) or (2j) (bm) or (cm) once
23 in his or her lifetime.

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INSERT 52-6

24 ~~Section 11.~~ 973.09 (1) (d) 1 of the statutes is amended to read:

SENATE BILL 530**SECTION 11**

1 973.09 (1) (d) 1. A violation under s. 346.63 (1) that subjects the person to a
2 mandatory minimum period of imprisonment under s. 346.65 (2) (b) or (c). This
3 subdivision does not apply to a person sentenced in Winnebago County if the court
4 orders the person to complete a period of probation that includes alcohol and other
5 drug treatment.

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SECTION 12. Initial applicability.

7 (1) This act first applies to violations that are committed on the effective date
8 of this subsection.

9 (END)

**SENATE AMENDMENT 1,
TO 2005 SENATE BILL 530**

February 21, 2006 - Offered by COMMITTEE ON JUDICIARY, CORRECTIONS AND PRIVACY.

At the locations indicated, amend the bill as follows:

1
2 ~~1.~~ Page 2, line 17: after "days" insert "nor more than 5 days".

3
4 ~~2.~~ Page 3, line 16: delete "7" and substitute "10".

5
6 ~~3.~~ Page 5, line 23: after that line insert:

7 "SECTION 10m. 346.65 (8) of the statutes is created to read:

8 346.65 (8) There shall be a pilot project in Winnebago County providing for
9 alternative penalties under this section, which penalties shall be as specified in subs.
10 (2) (bm) and (cm), (2j) (bm) and (cm), and (3r)."

11
12 ~~4.~~ Page 6, line 5: after that line insert:

13 "SECTION 11m. 973.11 (1) (intro.) of the statutes, as affected by 2003 Wisconsin
Act 33, is amended to read:

973.11 (1) PLACEMENTS. (intro.) If a person is convicted of or pleads guilty or
no contest to one or more misdemeanors for which either mandatory periods of

MADE INEFFECTIVE
BY SA2-1
SA2-6

SA2-2

S1-1

S1-2

S1-3

S1-4

MADE INEFFECTIVE
BY SA2-8

51-4

1 imprisonment are not required or the person is sentenced under s. 346.65 (2) (bm)
2 or (cm), if the chief judge of the judicial administrative district has approved a
3 volunteers in probation program established in the applicable county, and if the court
4 decides that volunteer supervision under the program will likely benefit the person
5 and the community and subject to the limitations under sub. (3), the court may
6 withhold sentence or judgment of conviction and order that the person be placed with
7 that volunteers in probation program. A person's participation in the program may
8 not be used to conceal, withhold, or mask information regarding the judgment of
9 conviction if the conviction is required to be included in a record kept under s. 343.23
10 (2) (a). Except as provided in sub. (3), the order shall provide any conditions that the
11 court determines are reasonable and appropriate and may include, but need not be
12 limited to, one or more of the following?.

(END)

**SENATE AMENDMENT 2,
TO 2005 SENATE BILL 530**

March 3, 2006 – Offered by Senator ROESSLER.

At the locations indicated, amend the bill as follows:

1. Page 2, line 17: delete “2” and substitute “5 nor more than 7”.

2. Page 3, line 16: delete “7” and substitute “10”.

3. Page 4, line 8: delete “2” and substitute “5 nor more than 7”.

4. Page 5, line 1: delete “7” and substitute “10”.

5. Page 5, line 15: delete “60” and substitute “30”.

6. Page 5, line 23: after that line insert:

“SECTION 10m. 346.65 (8) of the statutes is created to read:

346.65 (8) There shall be a pilot project in Winnebago County providing for alternative penalties under this section, which penalties shall be as specified in subs. (2) (bm) and (cm), (2j) (bm) and (cm), and (3r).”.

7. Page 5, line 24: delete the material beginning with that line and ending with
page 6, line 5. 152

8. Page 6, line 5: after that line insert:

SECTION 11m. 973.11 (1) (intro.) of the statutes, as affected by 2003 Wisconsin Act 33, is amended to read:

973.11 (1) PLACEMENTS. (intro.) If a person is convicted of or pleads guilty or no contest to one or more misdemeanors for which either mandatory periods of imprisonment are not required or the person is sentenced under s. 346.65 (2) (bm) or (cm), (2j) (bm) or (cm), or (3r), if the chief judge of the judicial administrative district has approved a volunteers in probation program established in the applicable county, and if the court decides that volunteer supervision under the program will likely benefit the person and the community and subject to the limitations under sub. (3), the court may withhold sentence or judgment of conviction and order that the person be placed with that volunteers in probation program. A person's participation in the program may not be used to conceal, withhold, or mask information regarding the judgment of conviction if the conviction is required to be included in a record kept under s. 343.23 (2) (a). Except as provided in sub. (3), the order shall provide any conditions that the court determines are reasonable and appropriate and may include, but need not be limited to, one or more of the following:".

(END)



State of Wisconsin
2005-2006 LEGISLATURE

Chris

CORRECTIONS IN:

Senate
530
2005 ASSEMBLY BILL 270

Prepared by the Legislative Reference Bureau
(October 3, 2005)

In enrolling, the following correction was made:

Item 1 of ^{Senate} ~~assembly~~ amendment 1 was not given effect because item 1 of ~~assembly~~ amendment 2 ~~deleted that material.~~ _{Senate}

(END)

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LRB-2052/lccc-1

CJS:ch



State of Wisconsin
2005-2006 LEGISLATURE

CORRECTIONS IN:

2005 SENATE BILL 530

Prepared by the Legislative Reference Bureau
(May 9, 2006)

In enrolling, the following correction was made:

Item 1 of senate amendment 1 was not given effect because it was superseded by
item 1 of senate amendment 2.

(END)